



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2017-0013; FRL-9960-68-Region 2]

Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a source-specific revision to the New York State Implementation Plan (SIP). This revision consists of a Best Available Retrofit Technology (BART) determination for the Danskammer Generating Station Unit 4. The SIP revision establishes emission limits for sulfur dioxide, oxides of nitrogen, and particulate matter that are identical to those set by the EPA's Federal Implementation Plan (FIP) for Danskammer Unit 4, which was promulgated in an action taken on August 28, 2012. The SIP revision also restricts Danskammer Unit 4 to combusting only natural gas. The EPA proposes to find that the SIP revision fulfills the requirements of the Clean Air Act and the EPA's Regional Haze Rule for BART at Danskammer Unit 4. In conjunction with this proposed approval, we propose to withdraw those portions of the FIP that address BART for Danskammer Unit 4.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R02-OAR-2017-0013 to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Edward J. Linky, Environmental Protection Agency, Air Programs Branch, 290 Broadway New York, New York 1007-1866 at 212-637-3764 or by email at [Linky.Edward @epa.gov](mailto:Linky.Edward@epa.gov).

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Throughout this document whenever “Agency,” “we,” “us,” or “our” is used, we mean the EPA.

I. What Action is the EPA Proposing?

The EPA is proposing to approve a source-specific State Implementation Plan (SIP) revision for Unit 4 at the Danskammer Generating Station submitted by the New York State Department of Environmental Conservation (NYSDEC) on August 10, 2015, and supplemented by NYSDEC on August 5, 2016.¹ Specifically, the EPA is proposing to approve emission limits for sulfur dioxide (SO₂), oxides of nitrogen (NO_x), and particulate matter (PM) for Unit 4 at the Danskammer Generating Station that are equivalent to the emission limits established by the EPA’s Federal Implementation Plan (FIP) that was promulgated on August 28, 2012 (77 FR 51915, 51928). The EPA is also proposing to approve a condition in the SIP revision that restricts Danskammer Unit 4 to combusting only natural gas.

II. What is the Background Information for this proposal?

This section provides a brief overview of the requirements of the Clean Air Act (CAA) and Regional Haze Rule that apply to this particular action. Please refer to our previous rulemakings on the New York Regional Haze SIP for additional background regarding the visibility protection provisions of the CAA and the Regional Haze Rule.²

A. SIP and FIP Background

¹ NYSDEC’s August 10, 2015, submittal also included SIP revisions for LaFarge Building Materials and Rockville Centre Power Plant which we intend to act on separately.

² 77 FR 24794 (April 25, 2012) (proposed rule); 77 FR 27162 (May 9, 2012) (Notice of Data Availability); 77 FR 51915 (Aug. 28, 2012) (final rule)

The CAA requires each state to develop plans to meet various air quality requirements, including protection of visibility. (CAA sections 110(a), 169A, and 169B). The plans developed by a state are referred to as SIPs. A state must submit its SIPs and SIP revisions to EPA for approval. Once approved, a SIP is federally enforceable, that is enforceable by the EPA and subject to citizen suits under the CAA. If a state fails to make a required SIP submittal or if we find that a state's required submittal is incomplete or unapprovable, then EPA must promulgate a FIP to fill this regulatory gap. (CAA section 110(c)(1)).

B. Regional Haze Background

In the 1977 Amendments to the CAA, Congress initiated a program for protecting visibility in the nation's national parks and wilderness areas. Section 169A(a)(1) of the CAA establishes as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." In 1990, Congress added section 169B to the CAA to address regional haze issues. On July 1, 1999, the EPA promulgated the Regional Haze Rule (RHR) (64 FR 35714). The requirement to submit a Regional Haze SIP applies to New York and all 50 states, the District of Columbia, and the Virgin Islands. 40 CFR 51.308(b) of the RHR required states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

C. EPA Action on New York's Regional Haze Submittals

The EPA's final action on New York's Regional Haze SIP included approving 17 source-specific SIP revisions containing permits for Best Available Retrofit Technology (BART) and

promulgating a FIP to address two sources where EPA disapproved New York's BART determinations—Roseton Generating Station (Units 1 and 2) and the Danskammer Generating Station (Unit 4). 77 FR 51915 (August 28, 2012).

On August 10, 2015, NYSDEC submitted a request for a source-specific SIP revision for Danskammer Unit 4 which would replace the EPA's FIP. In this action, the EPA proposes to approve the SIP revision and remove Danskammer Unit 4 from the FIP, but this action does not address the Roseton Generating Station still covered by the EPA's FIP.

III. What is included in the NYSDEC SIP submittal?

On August 10, 2015, NYSDEC submitted a request for a source-specific SIP revision for Danskammer Unit 4, which would replace the BART emission limits and related requirements in the EPA's FIP that were promulgated in the Federal Register on August 28, 2012 (77 FR 51915). This SIP revision contained Danskammer Unit 4's Title V permit conditions 61-64.

In a letter to NYSDEC dated July 14, 2016, the EPA requested that NYSDEC supplement its August 10, 2015 SIP submittal. Specifically, the EPA requested that NYSDEC submit Danskammer Unit 4's Title V permit condition 55.6 (at pages 48 and 49 of the permit), which restricts Unit 4 to combusting only natural gas. The EPA also requested that NYSDEC submit a copy of the April 1, 2015 public notice as published in NYSDEC's Environmental Notice Bulletin (ENB).

In a letter dated August 5, 2016, NYSDEC submitted to the EPA (1) permit condition 55.6 (pages 48 and 49) of Danskammer Unit 4's Title V permit that was renewed on February 24, 2015, which permits Unit 4 to combust natural gas only and (2) a copy of NYSDEC's April 1, 2015 ENB that noticed the proposed Danskammer SIP revision.

IV. What is the EPA's Analysis of NYSDEC's submittal?

In its submittal, NYSDEC includes BART emission limits for Danskammer Unit 4 that are identical to those contained in the EPA's FIP: 0.12 pounds NO_x per million Btu (lb/MMBtu) calculated on a 24-hour average during the ozone season and on a 30-day average during the rest of the year; 0.09 lb SO₂/MMBtu calculated on a 24-hour average; and 0.06 lb PM/MMBtu calculated on a 1-hour average. NYSDEC also includes a condition that restricts Danskammer Unit 4 to combusting only natural gas.

The EPA is proposing to approve NYSDEC's SIP submittal because it is more stringent than the EPA's FIP. The SIP submittal includes BART emission limits for SO₂, NO_x, and PM and related administrative requirements (i.e., monitoring, recordkeeping and reporting requirements) that are identical to those in the EPA's FIP. Moreover, the SIP submittal includes a condition that restricts Danskammer Unit 4 to combusting only natural gas, which will have the effect of further reducing visibility-impairing emissions, particularly SO₂ and PM. Consequently, the EPA proposes to withdraw those portions of the FIP that address BART for Danskammer Unit 4. The EPA will fully consider all significant comments on these proposed actions.

VI. Statutory and Executive Order Reviews:

In reviewing NYSDEC's SIP submittal, the EPA's role is to approve state choices if they meet the requirements of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- does not provide EPA with the discretionary authority to address as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not have tribal implications as specified by Executive Order 13175. The SIP revision submitted by NYSDEC is not approved to apply on any Indian reservation land or in any other areas where the EPA or Tribal Nation has demonstrated that a Nation has jurisdiction. Thus Executive Order 13175 does not apply to this proposed rule.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 et seq.

Dated: March 10, 2017.

Catherine R. McCabe,
Acting Regional Administrator,
Region 2.

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